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By: **Senators Kelley, Brochin, and Grosfeld**  
Introduced and read first time: January 31, 2003  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Abuse and Neglect - Reporting by Members of the Clergy**

3 FOR the purpose of limiting a provision that exempts certain members of the clergy  
4 from the child abuse and neglect reporting requirements under certain  
5 circumstances; providing for the construction of a certain provision of this Act;  
6 and generally relating to child abuse and neglect.

7 BY repealing and reenacting, with amendments,  
8 Article - Family Law  
9 Section 5-705  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 2002 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Family Law**

15 5-705.

16 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,  
17 notwithstanding any other provision of law, including a law on privileged  
18 communications, a person other than a health practitioner, police officer, or educator  
19 or human service worker who has reason to believe that a child has been subjected to  
20 abuse or neglect shall:

21 (i) if the person has reason to believe the child has been subjected  
22 to abuse, notify the local department or the appropriate law enforcement agency; or

23 (ii) if the person has reason to believe the child has been subjected  
24 to neglect, notify the local department.

25 (2) A person is not required to provide notice under paragraph (1) of this  
26 subsection:

1 (i) in violation of the privilege described under § 9-108 of the  
2 Courts Article;

3 (ii) if the notice would disclose matter communicated in confidence  
4 by a client to the client's attorney or other information relating to the representation  
5 of the client; or

6 (iii) in violation of any constitutional right to assistance of counsel.

7 (3) (I) A minister of the gospel, clergyman, or priest of an established  
8 church of any denomination is not required to provide notice under paragraph (1) of  
9 this subsection if the notice would disclose matter [in relation to any communication  
10 described in § 9-111 of the Courts Article and:

11 (i) the communication was made to the minister, clergyman, or  
12 priest in a professional character in the course of discipline enjoined by the church to  
13 which the minister, clergyman, or priest belongs; and

14 (ii)] COMMUNICATED BY THE PERPETRATOR IN THE COURSE OF A  
15 CONFESSION, AND the minister, clergyman, or priest is SPECIFICALLY bound to  
16 maintain the confidentiality of that communication under canon law[,] OR church  
17 doctrine[, or practice].

18 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE  
19 CONSTRUED TO MODIFY OR LIMIT THE DUTY TO REPORT SUSPECTED CHILD ABUSE  
20 OR NEGLECT:

21 1. WHENEVER A MINISTER, CLERGYMAN, OR PRIEST  
22 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ACTS IN A CAPACITY THAT  
23 WOULD OTHERWISE REQUIRE THE MINISTER, CLERGYMAN, OR PRIEST TO REPORT  
24 SUSPECTED ABUSE OR NEGLECT UNDER THIS SUBTITLE; OR

25 2. IF INFORMATION REGARDING THE SUSPECTED ABUSE OR  
26 NEGLECT:

27 A. WAS OBTAINED FROM ANY SOURCE OTHER THAN BY THE  
28 PERPETRATOR IN THE COURSE OF A CONFESSION, INCLUDING PERSONAL  
29 OBSERVATION OF A VICTIM, EVEN THOUGH INFORMATION ALSO MAY HAVE BEEN  
30 OBTAINED FROM THE PERPETRATOR IN THE COURSE OF A CONFESSION;

31 B. WAS COMMUNICATED BY THE PERPETRATOR IN THE  
32 COURSE OF A CONFESSION IN THE PRESENCE OF A THIRD PARTY; OR

33 C. WAS COMMUNICATED BY THE PERPETRATOR IN THE  
34 COURSE OF A CONFESSION AND DISCLOSED BY A MINISTER, PRIEST, OR CLERGYMAN  
35 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO A THIRD PARTY.

36 (b) (1) An agency to which a report of suspected abuse is made under  
37 subsection (a) of this section shall immediately notify the other agency.

1           (2)       This subsection does not prohibit a local department and an  
2 appropriate law enforcement agency from agreeing to cooperative arrangements.

3       (c)       A report made under subsection (a) of this section may be oral or in  
4 writing.

5       (d)       (1)       To the extent possible, a report made under subsection (a) of this  
6 section shall include the information required by § 5-704(c) of this subtitle.

7           (2)       A report made under subsection (a) of this section shall be regarded  
8 as a report within the provisions of this subtitle, whether or not the report contains  
9 all of the information required by § 5-704(c) of this subtitle.

10       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2003.